

TCEQ AIR QUALITY PERMIT NUMBER 91552

2010 SEP 15 AM 11:39

CHIEF CLERKS OFFICE

APPLICATION BY	§	BEFORE THE
	§	
SPLENDORA READY MIX, INC.	§	TEXAS COMMISSION ON
	§	
SPLENDORA, MONTGOMERY COUNTY	§	ENVIRONMENTAL QUALITY

### EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director of the Texas Commission on Environmental Quality (the Commission, Agency, or TCEQ) files this Response to Public Comment (Response) on the Standard Permit application and Executive Director's preliminary decision.

As required by 30 Texas Administrative Code (TAC) § 55.156, before an application is approved, the Executive Director prepares a response to all timely, relevant and material, or significant comments. The Office of Chief Clerk timely received comment letters from the following persons: Senator Tommy Williams, James Bailey, Steve Block, James Carson, Alvin and Emma Coody, Jesse Coody, David Cousimano, Bernard L. Frank, Nettie and Wayne Hamilton, Diann Loya, Charlie F. Lenox Sr., Janie Lenox, Luther Ragan, Nikki Rogers, Larry Rogers, Regina Shaw, Danny Shelton, Kim Shelton, Joe H. Smith, Anthony Stovall, Samuil (Sam) Vancia, Linda Vaughn, and Reverend L.E. Williams. This Response addresses all timely public comments received, whether or not withdrawn. If you need more information about this permit application or the permitting process please call the TCEQ Office of Public Assistance at 1-800-687-4040. General information about the TCEQ can be found at our website at [www.tceq.state.tx.us](http://www.tceq.state.tx.us).

### BACKGROUND

#### Description of Facility

Splendora Ready Mix, Inc. (Applicant or Splendora) has applied to the TCEQ for a Standard Permit under the Texas Clean Air Act (TCAA), Tex. Health and Safety Code § 382.05195. If granted, this registration will authorize the construction of a new facility that may emit air contaminants.

This registration will authorize Splendora to construct and operate a permanent concrete batch plant. The facility will be located at 26670 Midline Rd, Splendora, Montgomery County. The contaminants authorized under this permit have the potential to contain particulate matter less than or equal to 10 microns in aerodynamic diameter (PM<sub>10</sub>), and particulate matter less than or equal to 2.5 microns in aerodynamic diameter (PM<sub>2.5</sub>).

### Procedural Background

Splendora must obtain a permit or permit amendment from the Commission before construction or modification of a new or existing facility that may emit air contaminants begins. This registration application is for the Air Quality Standard Permit for Concrete Batch Plants (Standard Permit). The registration application was received on December 14, 2009, and declared administratively complete on December 18, 2009. The Notice of Receipt and Intent to Obtain an Air Quality Permit (First Public Notice) for this registration application was published on January 7, 2010, in the *Houston Chronicle*. An alternative-language notice was published January 10, 2010, in *La Voz de Houston*. The Notice of Application and Preliminary Decision (NAPD) and Notice of Public Meeting for an Air Quality Standard Permit for Concrete Batch Plant Registration (Second Public Notice) for this registration application was published on May 30, 2010, in the *Houston Chronicle*. An alternative-language notice was published May 30, 2010, in *La Voz de Houston*. Since this application was administratively complete after September 1, 1999, this action is subject to the procedural requirements adopted in accordance with House Bill 801, 76th Legislature, 1999.

### COMMENTS AND RESPONSES

**COMMENT 1:** Several commenters are concerned about the potential negative effects emissions from the Applicant's plant would have on their health and safety. Senator Tommy Williams submitted a comment on behalf of his constituents who are concerned that the plant would have a negative impact on their health. Mr. Lenox, Sr., is concerned that the plant will create health problems for him, his spouse, children, and grandchildren. Specifically, he wants to know whether cement dust would settle in his lungs and what the effect of that would be on him. Ms. Shelton, and Mr. and Mrs. Hamilton queried whether the plant will create hazardous breathing issues, and want to know whether concrete dust will cause long-term respiratory problems for the elderly and youth of the community. Mr. Smith commented on the possible effects the plant could have on his wife who suffers from chronic obstructive pulmonary disease (COPD), and asthma. Mr. Carson commented on the environmental effects of the plant will be on the community.

**RESPONSE 1:** The stated purpose of the TCAA is to "safeguard the state's air resources from pollution by controlling or abating air pollution and emissions of air contaminants." One of the ways the Agency accomplishes this purpose is through the use of this Standard Permit approved in 2000. The standard permit contains technical requirements with which each facility registered to use it must comply. These technical requirements are designed to ensure that facilities meet state and federal emission standards. The impact of emissions from a concrete batch plant (CBP) have been determined by comparing predicted emission concentrations from a CBP operating under the standard permit conditions to the appropriate state and federal standards. The specific health-based standards, or guidance levels, include the National Ambient Air Quality Standards (NAAQS); TCEQ standards contained in 30 TAC; and TCEQ Effect Screening Levels (ESLs).

The NAAQS, as defined in 40 Code of Federal Regulations (CFR) § 50.2, were created and are periodically reviewed by the U.S. Environmental Protection Agency (EPA). The NAAQS include both primary and secondary standards. Primary standards are those which the Administrator of the EPA determines are necessary, within an adequate margin of safety, to protect the public health, including sensitive members of the population such as children, the elderly and individuals with existing lung or cardiovascular conditions. Secondary NAAQS are those which the Administrator determines are necessary to protect the public welfare and the environment, including animals, crops, vegetation, and buildings, from any known or anticipated adverse effects associated with the presence of an air contaminant in the ambient air. The NAAQS are set for what the EPA defines as criteria pollutants. The criteria pollutants for which the EPA has established a NAAQS are ozone, lead, carbon monoxide (CO), sulfur dioxide (SO<sub>2</sub>), nitrogen dioxide (NO<sub>2</sub>), PM<sub>10</sub> and PM<sub>2.5</sub>.

Particulate matter (PM) consists of solid particles and liquid droplets found in the air, and includes PM, total suspended particulates, particulate matter less than or equal to 10 microns (µm) in aerodynamic diameter (PM<sub>10</sub>), and particulate matter less than 2.5 µm in aerodynamic diameter (PM<sub>2.5</sub>). PM<sub>10</sub> particles are referred to as "coarse" particles and PM<sub>2.5</sub> particles are referred to as "fine" particles. Sources of coarse particles include wind-blown dust, dust generated by vehicles traveling on unpaved roads, material handling, and crushing and grinding operations. Fine particles are usually produced via industrial and residential combustion processes, and vehicle exhaust. During the development of the Air Quality Standard Permit for Concrete Batch Plants the TCEQ used the PM<sub>10</sub> program as a surrogate for the PM<sub>2.5</sub> program consistent with the EPA PM<sub>2.5</sub> surrogate policy applicable at that time. Therefore, PM<sub>10</sub> controls and emissions were modeled and predicted PM<sub>10</sub> concentrations were compared to the PM<sub>10</sub> NAAQS.

All facilities emitting PM from a generic CBP were considered in the development of the Standard Permit. Emission rate calculations were based on emissions factors for CBPs found in the EPA's Compilation of Air Pollutant Emission Factors Manual (AP-42). The PM and PM<sub>10</sub> ground-level concentration standards were used to determine protectiveness. The PM<sub>10</sub> ground-level concentration standards are based upon short-term and long-term health effects considerations. Using AP-42 factors, emissions were modeled to ensure that all CBP configurations would meet the primary and secondary NAAQS, as well as other state and federal standards. The state ground-level concentration standards are no longer in effect; however, the distance limitations established under the ground-level concentration standards remain a part of the standard permit. The distance limitations were established to ensure that operation of a CBP would not adversely affect human health and the environment, regardless of the configuration of the CBP.

Further, the NAAQS for PM<sub>10</sub> is based on a 24-hour time period. The measurement for predicted concentrations of air contaminants in modeling exercises is expressed in terms of micrograms per cubic meter (µg/m<sup>3</sup>). One microgram is 1/1,000,000 of a gram, or 2.2/1,000,000,000 of a pound (approximately the weight of a dust mite) of air contaminant per cubic meter of ambient air. The air volume of a cubic meter is approximately the size of a washing machine. The results of the NAAQS evaluation resulted in a 24-hour concentration of

108  $\mu\text{g}/\text{m}^3$ ; and an annual concentration of 2.9  $\mu\text{g}/\text{m}^3$ . Predicted air concentrations occurring below the 24-hour NAAQS of 150  $\mu\text{g}/\text{m}^3$  are not expected to exacerbate existing conditions or cause adverse health effects. The potential for emissions of PM from CBPs was reviewed, and it was determined that CBP facilities operating under the standard permit would meet the annual NAAQS for PM<sub>10</sub>.<sup>1</sup>

The Executive Director has conducted a thorough review of Splendora's registration application in accordance with all relevant laws, policies, procedures, and the Agency's mission to protect the state's human and natural resources stated in the TCAA. Provided that the Applicant operates its CBP within the terms of the Standard Permit, potential emissions are not expected to adversely impact health and welfare, including sensitive subgroups, animal life, plant life, property, or the environment.

Individuals are encouraged to report any concerns about nuisance issues or suspected noncompliance with terms of any permit or other environmental regulation by contacting the TCEQ Regional Office at 713-767-3500, or by calling the 24-hour toll-free Environmental Complaints Hotline at 1-888-777-3186. If the facility is found to be out of compliance with the terms and conditions of the standard permit, it will be subject to possible enforcement action. Citizen-collected evidence may be used in such an action. See 30 TAC § 70.4, Enforcement Action Using Information Provided by Private Individual, for details on gathering and reporting such evidence. The TCEQ has long had procedures in place for accepting environmental complaints from the general public but now has a new tool for bringing potential environmental problems to light. Under the citizen-collected evidence program, individuals can provide information on possible violations of environmental law and the information can be used by the TCEQ to pursue enforcement. In this program, citizens can become involved and may eventually testify at a hearing or trial concerning the violation. For additional information, see the TCEQ publication, *"Do You Want to Report an Environmental Problem? Do You Have Information or Evidence?"* This booklet is available in English and Spanish from the TCEQ Publications office at 512-239-0028, and may be downloaded from the agency website at [www.tceq.state.tx.us](http://www.tceq.state.tx.us) (under Publications, search for document no. 278).

**COMMENT 2:** Several commenters are concerned about the effect on air quality and quality of life in general from dust emanating from the plant and its trucks, settling on neighbors properties, homes, and cars. (Mr. Block, Mr. Alvin Coody, Ms. Emma Coody, Mr. Jesse Coody, Mr. Cousimano, Mr. and Mrs. Hamilton, Mr. Lennox, Sr., Ms. Lennox Ms. Shaw, Mr. and Mrs. Shelton, Mr. Stovall, Mr. Smith, and Mr. Vancia.)

**RESPONSE 2:** The Executive Director has considered the effect of the Applicant's plant on public welfare when it evaluated the potential emissions of the CBP in accordance with the secondary NAAQS as discussed in Response 1. The secondary NAAQS are set by the EPA below levels which would be expected to cause nuisance conditions i.e., dust accumulation or decreased visibility, or eye and throat irritation. The Executive Director's staff has determined

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<sup>1</sup> Emissions from facilities operating under the standard permit also meet the former NAAQS of 50 $\mu\text{g}/\text{m}^3$  annually, which the EPA has since repealed.

that emissions from this facility will not cause an exceedance of the secondary NAAQS should the Applicant operate its plant within the terms of its Standard Permit; therefore, no impact to land, livestock, crops, or visibility is expected, nor should emissions interfere with the use and enjoyment of surrounding land.

In addition to complying with the NAAQS, the Applicant must comply with 30 TAC § 101.4, Nuisance, which prohibits nuisance conditions. It states that "no person shall discharge from any source whatsoever one or more air contaminants or combinations thereof, in such concentration and of such duration as are or may tend to be injurious to or adversely affect human health or welfare, animal life, vegetation, or property, or as to interfere with the normal use and enjoyment of animal life, vegetation, or property." The standard permit conditions are drafted to prevent nuisance conditions and the Applicant is not permitted to operate in such a manner as to cause nuisance conditions.

As stated, the secondary NAAQS are set to address welfare effects such as visibility reduction, crop damage, and material damage. Section 302(h) of the FCAA defines effects on welfare to include effects on soils, water, crops, vegetation, manmade materials, animals, wildlife, weather, visibility and climate, damage to and deterioration of property, hazards to transportation, and impacts to personal comfort and well-being, whether caused by transformation, conversion, or combination with other air pollutants. Because the emissions from this facility are not expected to cause an exceedance of the NAAQS, no impact to land, livestock, crops, or visibility is expected, nor should any emissions interfere with the use and enjoyment of surrounding land.

Finally, there are several requirements limiting visible emissions included throughout the standard permit. Specifically, paragraphs (3)(B) and (3)(C) establish visible emissions limitations and compliance determination methods for filter systems. There shall be no visible emissions exceeding 30 seconds in a six-minute period in accordance with EPA Test Method (TM) 22. Illumination of all abatement exhausts is also required for night-time operation, so that the operator, or TCEQ regional investigators, can verify visible emission limits are being met. However, as described in Response 7, the Applicant has represented that it will not operate at night. Finally, Standard Permit subsection (3)(D) requires a warning system to alert operators before a silo is over-filled in order to avoid a potential upset condition.

Individuals are encouraged to report any concerns about nuisance issues or suspected noncompliance with terms of any permit or other environmental regulation by contacting the TCEQ Regional Office at (713) 767-3500, or by calling the 24-hour toll-free Environmental Complaints Hotline at 1-888-777-3186. Please refer to Response 1 for further information.

**COMMENT 3:** Commenters generally are concerned about the location of the plant, and its trucks. Specifically, some commenters are concerned with the use and volume of gravel trucks, and other large vehicle trucks the Applicant may utilize in its operations. Commenters are generally concerned trucks will use roads near their subdivisions, and that the trucks will affect resident access to the neighborhood and increase traffic volume (Mr. Bailey, Mr. Block, Mr. Cousimano, Mr. Alvin Coody, Ms. Coody, Mr. Frank, Ms. Lenox, Mr. and Mrs. Hamilton, Mr. Ragan, Ms. Rogers, Ms. Shaw, Mr. Shelton, Mr. Smith, and Ms. Vaughn). Some are concerned

that heavy truck traffic will deteriorate the quality of the roads, including creating holes and increased dirt (Mr. Bailey, Mr. Frank, Mr. and Mrs. Hamilton, Ms. Lenox, Ms. Rogers, Ms. Shaw, Mr. Shelton, and Ms. Vaughn). Other commenters question whether trucks will dirty neighboring vehicles with dirt, and crack or chip windshields (Ms. Rogers and Ms. Vaughn). Others are concerned about potential unsafe conditions and truck traffic because of the plant, and fear for their children, grandchildren, and families. (Mr. Bailey, Mr. Block, Mr. Alvin Coody, Ms. Coody, Ms. Lenox, and Mr. Lenox, Sr.).

**RESPONSE 3:** The TCEQ's jurisdiction is established by the Texas Legislature and is limited to the issues set forth in statute. It has accordingly not been empowered to consider facility location (land use) choices, zoning, or effects on property values in its review of a Standard Permit application. Any concerns regarding land use, zoning, or the effect on surrounding property values should be directed to local municipal officials. The issuance of the registration cannot be denied on the basis of facility location.

Moreover, the TCEQ does not have jurisdiction to consider traffic or road safety, because TCAA § 382.003, Definitions, specifically excludes roads from the definition of "facility." Jurisdiction over traffic on public roads is the responsibility of the cities, county, and/or other state agencies such as the Texas Department of Public Safety and the Texas Department of Transportation.

However, the TCEQ rules include a general prohibition preventing applicants from causing a traffic hazard. 30 TAC § 101.5 states: "No person shall discharge from any source whatsoever such quantities of air contaminants, uncombined water, or other materials which cause or have a tendency to cause a traffic hazard or an interference with normal road use." Therefore, the Applicant is prohibited from creating a traffic hazard with its emissions, and emissions from plant roads are controlled by best management practices as required in the standard permit. The entry and exit roads and main traffic routes associated with the operation of the CBP shall be paved with a cohesive hard surface that is maintained intact and cleaned. Other in-plant traffic areas shall be minimized by either watering, treating with dust-suppressant chemicals or paving with a cohesive hard surface that is maintained intact and cleaned. Please see Response 6 for further discussion of the best management practices and control devices the Applicant will utilize in its operations at the site.

Finally, trucks are considered mobile sources, and the TCEQ also does not have the jurisdiction to consider the impacts of emissions from motor vehicles when determining whether to approve a standard permit registration application.

**COMMENT 4:** Other commenters expressed concern about the operating hours of the proposed plant and whether the plant will be operating at night (Ms. Coody, Ms. Loya, and Ms. Shelton).

**RESPONSE 4:** The standard permit for CBPs does not specify hours of operation; however, the Applicant is bound by any representations it made when it submitted its application for the Standard Permit.

Based on the registration application, the Applicant represented the plant's hours of operation will be 12 hours per day, 6 days per week, and 50 weeks per year, with a final total of no more

than 2,080 hours per year. For reference, the protectiveness review, described previously in Response 1, was based on a plant operating at a maximum production rate of 300 cubic yards per hour ( $\text{yd}^3/\text{hr}$ ) for 24-hours per day, 52 weeks per year. The Applicant also represented the plant will not operate at night—the 12 hours of daily operation are to be conducted during daylight hours only. The Applicant also represents the total production of the plant will not exceed 300 cubic yards per hour of concrete and 120,000 cubic yards per year.

In order to establish compliance with its representations to the TCEQ, the Applicant must comply with recordkeeping requirements contained in the Standard Permit. Specifically, the Applicant is required to track the plant's hours of operation, and paragraph (1)(F) of the Standard Permit requires tracking of production through record-keeping. The plant is classified as permanent, and all of the Standard Permit conditions for a permanent plant will apply, (paragraphs 1-3 and 6 of this Standard Permit).

A copy of the standard permit, along with information and data sufficient to demonstrate applicability of and compliance with the standard permit, shall be maintained in a file at the plant site and made available at the request of TCEQ representatives, EPA, or any air pollution control program having jurisdiction. Information and data sufficient to demonstrate the applicability of, and compliance with, the standard permit and representations made therein must be retained for at least two years following the date that the information or data is obtained. The copy of the standard permit must be maintained as a permanent record.

**COMMENT 5:** Ms. Shelton is concerned about the close proximity the proposed plant from residences.

**RESPONSE 5:** As mentioned in Responses 1 and 2, the TCEQ conducted an extensive protectiveness review to determine the technical requirements of the Standard Permit, which includes property line distances at which a plant's operation will not be detrimental to human health and welfare, or damage the environment. The standard permit requires specific distances to the property line to be set for equipment in order to meet all state and federal standards at the property line. This ensures the plant's protectiveness to off-property receptors, including any neighboring residents. The standard permit requires that the suction shroud baghouse exhaust or truck mix point must be located at least 100 feet from any property line. Stationary equipment, stockpiles, or vehicles used for the operation of the concrete batch plant (except for ingress and egress to the site) may not be located or operated, respectively, within the following specified distances to any property line: for those facilities with production rates less than or equal to 200 cubic yards per hour, at least 25 feet; and for those facilities with production rates more than 200 and less than or equal to 300 cubic yards per hour, at least 50 feet.

Splendora will operate one CBP at the Midline Road site. The total production at this site shall not exceed 300 cubic yards per hour of concrete. The Applicant represents it will be using a suction shroud at the truck drop with the exhaust air venting to a central dust collector. This emission point will be located more than 100 feet from any property line. Since the production rate will be set at 300 cubic yards or less, the 50 foot distance requirements apply for all applicable emission points.

The Executive Director's staff has reviewed the application representations and concluded that if the Applicant complies with the conditions of this Standard Permit, adverse effects from the plant should not occur.

**COMMENT 6:** Mr. Coody asked what types of emission controls will be in place at Splendora's plant.

**RESPONSE 6:** By applying for a Standard Permit, the Applicant is required to comply with Best Available Control Technology (BACT) at its CBP. BACT consists of control measures that are designed to minimize the level of emissions from specific sources at a facility with consideration given to the technical practicability and economic reasonableness of reducing or eliminating emissions. The Standard Permit was developed mindful of BACT, and health and welfare impacts.

The Standard Permit requires the following primary control measures:

- All dry material storage silos and the weigh hopper shall be equipped with a fabric filter or cartridge filter, or vented to a fabric or cartridge filter system designed to meet at least an outlet grain loading of 0.01 grains per dry standard cubic feet (gr/dscf), and all silos shall be equipped with audible or visual warning devices to prevent overloading;
- Conveying systems to and from silos shall be totally enclosed and maintained with no tears or leaks;
- The truck drop point shall be equipped with a suction shroud and vented to a fabric or cartridge filter system with a minimum of 4,000 actual cubic feet per minute of air;
- All filter systems and suction shroud shall be maintained with no tears or leaks;
- Stockpiles shall be sprinkled with water to reduce fugitive emissions;
- Sand and gravel used in the concrete process shall be washed prior to delivery to the site (the washing process removes at least 95% of fine particles);
- The entry and exit roads and main traffic routes associated with the operation of the CBP shall be paved with a cohesive hard surface that is maintained intact and cleaned; and,
- Other in-plant traffic areas shall be minimized by either watering, treating with dust-suppressant chemicals or paving with a cohesive hard surface that is maintained intact and cleaned.

In addition, to reduce nuisance potential, the standard permit includes property line setbacks to provide buffer zones and restrictions on visible fugitive emissions. These distance requirements are discussed in Response 5.

As stated in Response 1, individuals are encouraged to report any concerns about nuisance issues or suspected noncompliance with terms of any permit or other environmental regulation by contacting the TCEQ Regional Office at (713) 767-3500, or by calling the 24-hour toll-free Environmental Complaints Hotline at 1-888-777-3186.

**COMMENT 7:** Ms. Coody is concerned about the lights from the plant site at night.



**RESPONSE 7:** The Standard Permit requires illumination of abatement exhausts for night-time operation as a control requirement for visible emissions; however, the Applicant has represented that the plant will not operate at night.

The TCEQ's jurisdiction is limited as discussed in Response 3. It does not have the jurisdiction to regulate light pollution associated with the operation of the proposed facilities. If you have concerns regarding lights please contact your local municipal or county officials.

**COMMENT 8:** Several commenters express concern about the potential impact the plant's location will have on neighborhood property values (Senator Tommy Williams, Mr. Bailey, Mr. Block, Ms. Rogers, Ms. Shaw, Mr. Stovall, and Ms. Vaughn).

**RESPONSE 8:** As stated in Response 3, the TCEQ's jurisdiction is limited to those issues delineated in statute; accordingly, the TCEQ may not consider an applicant's choice for plant location when determining whether to approve or deny a registration application. The TCEQ does not have authority to consider land use, property values, or site selection when reviewing air quality standard permit registrations. Such issues should be directed to local municipal or county officials.

**COMMENT 9:** Ms. Loya asks whether the plant operators are aware of a local curfew.

**RESPONSE 9:** The Applicant is required to comply with all applicable federal, state, and local rules and regulations related to the operation of its plant. The Executive Director does not anticipate any violations of the local curfew if the Applicant operates within the conditions contained in its permit registration related to operating hours.

**COMMENT 10:** Some commenters express concern with the effect of noise from the proposed plant, specifically from the conveying systems, scrappers, and trucks, on the community and its quality of life (Mr. Block, Mr. Alvin Coody, Ms. Coody, Mr. Cousimano, Mr. Hamilton, Ms. Hamilton, Ms. Lenox, Mr. Lenox, Sr., Ms. Shaw, and Mr. Vancia).

**RESPONSE 10:** The TCEQ's limited jurisdiction does not provide for the Agency to consider noise from a facility in its determination whether to approve a registration for an air quality standard permit. Any concerns regarding noise should be directed to the appropriate local officials.

**COMMENT 11:** Mr. Coody was particularly concerned with the possibility of residents in the surrounding area developing silicosis. After reviewing MSDS sheets, he states that Portland cement lists crystalline silica as a component, and he believes Portland cement to be hazardous and that its dust is cancerous.

**RESPONSE 11:** Crystalline silica, or quartz, is a component of both sand and Portland cement, and is typically identified in Material Safety Data Sheets (MSDS) for Portland cement. MSDS sheets may identify several National agencies with jurisdiction related to them, including but not limited to the Occupational Safety and Health Administration (OSHA) and the National Institute

for Occupational Safety and Health (NIOSH). These agencies provide employers with permissible exposure limits (PEL) and recommended exposure levels (REL) regarding silica to protect employee health. The MSDS also provide worker exposure control and personal protection measures. Crystalline silica is not classified as a Hazardous Air Pollutant by the EPA; therefore, the EPA has not developed specific air quality standards for crystalline silica, beyond those established for PM<sub>10</sub> and PM<sub>2.5</sub> in the NAAQS. The primary concern of MSDS sheets is for employee safety when working around or handling cement within the plant. The cement handling processes required by the standard permit are designed to provide complete enclosures during the loading, transferring, storing, weighing, and finally, mixing the cement in the production of concrete. Additionally, the truck drop point is susceptible to dusting if proper controls are not used. Splendora is required to utilize a suction shroud at the truck drop point which is vented into a central baghouse for dust control.

The concrete batch plant standard permit was developed to meet the EPA's NAAQS for PM<sub>10</sub>, as well as all applicable state requirements. As described in Response 1 above, during the Standard Permit's protectiveness review, considerable effort was dedicated to demonstrating the operation of CBPs will not be detrimental to human health and welfare, or the environment. The Applicant represents it will comply with all conditions of the Standard Permit to include using sand and gravel that is washed prior to delivery to the site. The washing process removes at least 95% of the coarse (PM<sub>10</sub>) and fine (PM<sub>2.5</sub>) particles before the sand and gravel reach the plant. Once the sand and gravel reach the plant, the Standard Permit further requires that moisture is applied to the sand and gravel stockpiles as a method of added dust control. The review indicates that should the Applicant operate the plant in accordance with its registration, no adverse health impacts due to particulate matter are expected beyond 100 feet from the CBP facilities.

**COMMENT 12:** Ms. Rogers is concerned that the plant is already under construction. Ms. Coody is concerned that there are currently operations at the site at night.

**RESPONSE 12:** Splendora applied to the TCEQ for a Standard Permit under TCAA § 382.05195, Standard Permit, which will authorize the construction and operation of a permanent CBP. Splendora is required to further comply with TCAA § 382.0518(a), Preconstruction, and 30 TAC § 116.110, Applicability, both of which require an Applicant to obtain a pre-construction permit before any construction at a site may commence.

There are several actions the TCEQ does not consider to be construction within the meaning of 30 TAC § 116.110, and TCAA § 382.0518(a), including:

- Equipment received and stored at a plant site, provided no attempt is made to assemble or erect the equipment or to connect the equipment into any electrical, plumbing, or other utility system, and;
- Site clearance or site preparation, including, but not limited to, land clearing, soil load bearing tests, leveling of the area, laying of sewer and utility lines, road building, power line installation, fencing, and construction shack building, among others.

However, once the soil and site are ready for foundations, the first excavation into the readied soil is "start of construction."

There are several actions the TCEQ does consider to be construction within the meaning of 30 TAC, § 116.110 and TCAA § 382.0518(a), including:

- For permit units that require a concrete foundation, all work including excavation, form erection, or steel laying pertaining to foundations upon which permit units will rest, and;
- For permit units not requiring a concrete foundation, the erection or construction of associated foundational items like earthen dams, placement of piling, soil stabilization, storage tank fills, or retaining structures.

Should anyone in the surrounding area have any concerns about whether Splendora's activities at its site constitute construction, please contact the Regional Office at (713) 767-3500 or by calling the twenty-four hour toll-free Environmental Complaints Hotline at 1-888-777-3186. The TCEQ investigates all complaints received. If the facility is found to be out of compliance with the terms and conditions of the standard permit, it will be subject to possible enforcement action.

**COMMENT 13:** Ms. Shelton is concerned water used to control dust from the equipment and property will cause toxins from the plant to runoff into nearby Peach Creek. Mr. Ragan is concerned about the possibility of flooding in the area, causing unspecified hazardous conditions. Mr. and Mrs. Hamilton are concerned with the possibility of flooding if there is no retention system at the site.

**RESPONSE 13:** The TCAA does not regulate air emissions beyond the direct impacts (inhalation) that air emissions have on human health or welfare. The Standard Permit regulates the control and abatement of air emissions only, and issues regarding storm water drainage and flooding are not within the purview of this Standard Permit.

**COMMENT 14:** Mr. Coody asked who will be responsible for cleaning homes and cars if there are problems with dust.

**RESPONSE 14:** The Applicant is required to comply with all applicable state and federal rules and regulations related to the emission of dust particulate matter from its site. Please refer to Responses 1 and 2 for information related to nuisance and what citizens can do to report suspected nuisance issues or noncompliance with the terms of any permit to the TCEQ.

**COMMENT 15:** Mr. Rogers commented that he has seen the plant operations at the Applicant's other CBP located near homes in Houston, and observed no dust concerns from the plant. Mr. Rogers also questioned the concerns from other Protestants regarding dust since he has not observed them from any CBP. Lastly, Mr. Rogers stated that other CBP trucks in operation are not covered in dust and have no problems with the paint quality of trucks.

**RESPONSE 15:** The Executive Director appreciates the public's participation in the permitting process.

**COMMENT 16:** Some commenters generally note their opposition to the CBP and believe that this registration should be denied (Mr. Bailey, Mr. Carson, Mr. Lennox Sr., Ms. Rogers, Ms. Shaw, Mr. Shelton, Mr. Smith, Mr. Vancia, and Reverend L.E. Williams).

**RESPONSE 16:** The Executive Director recognizes the opposition to the plant from many of the commenters, but public opposition alone is not legally sufficient to justify denial of a standard permit registration application. The TCAA mandates the TCEQ must issue a registration if all criteria for the registration application are met.

#### CHANGES MADE IN RESPONSE TO COMMENT

No changes have been made to the Executive Director's preliminary determination that the application meets the requirements for permit registration issuance.

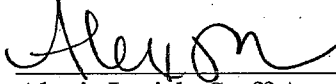
Respectfully submitted,

Texas Commission on Environmental Quality

Mark R. Vickery P.G.  
Executive Director

Stephanie Bergeron Perdue, Deputy Director  
Office of Legal Services

Robert Martinez, Division Director  
Environmental Law Division

  
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Environmental Law Division  
Bar No. 24070174

Representing the Executive Director of the Texas  
Commission on Environmental Quality

TCEQ INTRA-AGENCY TRANSMITTAL MEMO

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ENVIRONMENTAL LAW DIVISION  
BUILDING A, MC-173

**Attached:** Executive Director's Response to Comments

Application Information

Program Area (Air, Water or Waste): AIR

Permit No. 91552 Name: SPLENDORA READY MIX INC. Docket/CID Item # (if known): \_\_\_\_\_

**OCC Action Required** (check applicable boxes)

Date stamp and return copy to above-noted ELD Staff Attorney and:

**FOR ALL PROGRAM AREAS:** (required only when changes needed to official agency mailing list)

- ☐ **Update** the mailing list in your file with the attached contact names and addresses  
*Include corrected or additional names and addresses for mailing list*

**FOR WASTE & WATER:**

- ☐ Send Response to Comments Letter which solicits hearing requests and requests for reconsideration to the mailing list in your files  
*For Waste and Water this would occur in all circumstances when comments have been received for 801 applications*
- Or
- ☐ Send Response to Comments Letter and Motion to Overturn Letter which solicits motions to overturn to the mailing list in your files  
*For Waste and Water this may occur when all comments have been withdrawn for 801 applications or when comments are received for applications that will not be set for agenda.*

**FOR AIR (NSR only):**

- ☒ Send RTC with response to comments letter which solicits contested case hearing requests and requests for reconsideration to the mailing list in your files  
*For Air NSR applications this would occur only when there are pending contested case hearing requests (except no-increase renewals)*
- ☐ Set for commission agenda and send RTC with agenda setting letter  
*This would occur when there are pending contested case hearing requests on a no-increase renewal and technical review is complete.*
- ☐ Hold until a commission agenda date is requested and then send RTC with the Agenda Setting Letter  
*For Air applications this would occur when there are pending hearing requests on a no-increase renewal; but technical review is NOT complete. If this box is checked, ED staff must call the OCC Agenda Team Leader to arrange a specific agenda date.*
- ☐ Place RTC in File - no further action required by OCC  
*For Air NSR applications this would occur when the matter is uncontested but comments were received, APD will send a copy with MTO letter*
- ☐ Other Instructions: \_\_\_\_\_